



## ZONING BOARD OF APPEALS

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ZBA 2020-53  
Petition of Anita Spigulis-DeSnyder  
9 Durant Road

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Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, October 29, 2020 at 7:30 pm, on the petition of Anita Spigulis-DeSnyder requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming structure with less than required front yard setbacks, and construction of a new two-story structure that will meet setback requirements, on a 9,484 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, at 9 Durant Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On August 3, 2020, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication. In accordance with Chapter 53 of the Acts of 2020, the hearing was scheduled for October 29, 2020.

WITHDRAWN WITHOUT PREJUDICE

Present at the public hearing was David Himmelberger, Esq., representing Anita Spigulis-DeSnyder, the Petitioner. He said that the request is for a special permit to raze the existing nonconforming home on a nonconforming lot and to construct a new single family home that will be fully dimensionally compliant except for lot size of 9,484 square feet in 10,000 square foot Single Residence District. He said that the home was constructed before the enactment of front yard setbacks and has a current front yard setback of 26.4 feet. He said that the project was reviewed by the Historical Commission, went through several iterations and ended up with a design change that was endorsed by the Commission. He said that it will be a much more attractive home with a Dutch gambrel face that is consistent with houses in the area. He said that a number of neighbors wrote in support to the Historical Commission. He said that the plot plan shows two infiltration systems to capture all of the roof runoff. He requested favorable approval of a special permit.

A Board member said that the Planning Board recommendation discussed a waiver agreement between the Applicant and the Commission that was recorded at the Registry of Deeds. He asked if the waiver is pertinent to this Board's decision. Mr. Himmelberger said that waiver reduces the one year delay for demolition and is predicated on the plans that are before the Board.

A Board member discussed concerns about the size of the house. He said that Durant Road still has modest sized homes on it and he would hate to see 4,500 square foot houses built on the small lots. He said that what are currently affordable houses will be unaffordable. Mr. Himmelberger said that issue was the subject of significant conversation with the Historical Commission. He said that the design of this house masks the massing by virtue of its rooflines. He said that after working with the Historical Commission, they approved this house as being appropriate and granted a waiver. He said that there are a

number of homes as you approach 9 Durant Road from Claflin Road, across the street and two down on Claflin Road that are similar or slightly larger. He said that it will be a larger house but will not substantially more detrimental to the neighborhood.

Mr. Himmelberger said that the TLAG will be 4,581 square feet where 3,600 square feet is allowed. The Chairman said that is slightly more than what would be allowed in a 15,000 square foot Single Residence District. A Board member said that he was troubled that they were trying to squeeze too much in. Mr. Himmelberger said that it will be fully compliant with Zoning setbacks. He said that neighbors were supportive of the project and wrote letters to the Historical Commission.

Mr. Himmelberger said that roof runoff will be captured by two infiltration systems.

A Board member discussed concerns about the mass. The Chairman said that the average living area for homes on Durant Road is approximately 2,000 square feet and this proposal is for more than double that. He said that it will be significantly larger than the next largest home, which is already 1,000 square feet above the average for the rest of the neighborhood.

Mr. Himmelberger said that the Board's determination with respect to detriment to the neighborhood can be guided by the neighbors' support. He said that it is comparable to the house that is directly to its right. He said that 5 Claflin Road, which is on the corner of Durant Road and Claflin Road is of comparable size, as is the house directly across from it. He said that the proposed house is consistent with the approach in from Weston Road.

A Board member said that once you get on Durant Road, away from Claflin Road, the homes are affordable for most people. He said that to put this much square footage on a 9,400 square foot lot is troubling. He said that he had not seen any letters to the ZBA from the abutters. He said that even with letters of support from the neighbors, he was not sure that the Board would find that determinative. He said that he would like to see the Petitioner rethink the square footage of the house.

Mr. Himmelberger said that the project went through extensive review with the Historic Commission, who would not approve anything that they thought did not fit in with the neighborhood. He said that they felt that the stepped back garage with the front sitting main structure of the house breaks down the mass. He said that it is an attractive house with multiple rooflines that diminish the sense of massing.

A Board member said that, but for 16 square feet, this would be an as of right project. He said that if it was conforming, it would have to go through the Large House Review (LHR) process. He said that he agreed with Mr. Himmelberger that the design of the house does minimize the massing and bulk fairly effectively. He said that he was troubled about its size. He said that many properties facing Durant Road are smaller than this one. He said that putting this house on one of the smaller properties would not necessarily be an appropriate thing to do.

The Chairman said that the average lot on this street is 27 percent smaller than what the Zoning requires. He said that it is a street of small houses. He said that his concern was determining how putting 4,500 square feet in that neighborhood is not more detrimental. Mr. Himmelberger said that this house is at the end where it is in close proximity to some of the larger homes on Claflin Road, leading into Durant Road. He said that it does not impact the houses down the rest of the block on Durant Road that are smaller. He said that at this end of Durant and Claflin, this is comparable.

A Board member discussed precedence. He said that one of the purposes of the ZBA is to maintain the nature of the neighborhoods to the extent that it is feasible. He said that he did not want to see 5,000

square foot houses going into these neighborhoods. Mr. Himmelberger said that the regulations speak to dimensional setbacks but mass was never regulated in the Zoning Bylaw.

The Chairman said that the proposal conforms to all of the dimensional setbacks but is built out to the limits and fills up the volume. Mr. Himmelberger said that it will not be fully built out to the setbacks and has some verticality to take away a sense of spread. He said that the square footage is masked by the architectural detail.

A Board member suggested that the Petitioner withdraw the petition without prejudice and come back with something more in the nature of the existing neighborhood.

A Board member said that the property is located in a Water Supply Protection District and there were no calculations submitted to show how runoff will be handled.

A Board member discussed having the Applicant come back before the Board with answers to the questions that it raised and provide revised designs to eliminate unusable attic space. The Chairman said that even with the attic space removed, it will be just under the TLAG threshold for a 15,000 square foot district.

Mr. Himmelberger displayed pictures of houses in the neighborhood. The Chairman said that those are the three biggest houses within 300 feet. He said that the houses at the other end are smaller. He said that the architect did a good job to minimize the look but it is still too big.

Mr. Himmelberger requested that the Board allow the petition to be continued to give the Applicant time to provide drainage calculations and a basement plan to show that it is not part of TLAG. A Board member said that the Applicant might be better off asking to withdraw without prejudice because he did not think that he could approve the plan, even with the proposed calculations. Mr. Himmelberger asked if the Applicant could provide letters of support from the neighbors at a continued hearing. A Board member said that he heard a fair amount of opposition. He said that he still did not understand how the attic will be used. He said that reducing the height of the roof and bringing the square footage down close to the TLAG threshold may be acceptable to the Board. Mr. Himmelberger asked the petition could be continued so that the Applicant can make changes without having to start again with the Historical Commission.

A Board member said that he would need to see full architectural size prints that show where staircases go, where windows will be, a basement plan, and calculations for the Water Supply Protection District.

Mr. Himmelberger said that the Applicant's family grew up in the home. He said that a trust owns the property and the family is selling the property.

A Board member said that there are too many unanswered questions. He said that he did not understand how the attic was created in the way that it was and it's not clear how you get to it. He said that it will take some re-design to shrink it enough to satisfy the Board that it is not too large to be consistent with other houses in the neighborhood.

Mr. Himmelberger requested that the Board allow the petition to be withdrawn without prejudice. The Board voted unanimously to allow the petition to be withdrawn without prejudice.